

REMARKS

The Office action

Claims 1-34 are pending. Claims 7-34 stand rejected under the judicially created doctrine of obviousness-type double patenting over claims 1, 2, 8-10, 15-17, 20, and 23-29 of U.S. Patent No. 6,897,206. Claims 1-4 stand rejected as being anticipated by Berberian (Intl. J. Dermatol. 38:145-148, 1999). Claims 5 and 6 stand rejected as being anticipated by U.S. Patent No. 5,900,249. Each of these rejections is addressed in turn.

Rejections based on obviousness-type double patenting

Claims 7-34 are rejected under the judicially created doctrine of obviousness-type double patenting over claims 1, 2, 8-10, 15-17, 20, and 23-29 of U.S. Patent No. 6,897,206. Applicants elect to defer responding to this rejection until all other rejections have been overcome.

Rejections based on 35 U.S.C. § 102(b)

Claims 1-4 are rejected as being anticipated by Berberian. According to the Office, “as the composition [of Berberian] is applied to the skin topically, it is absorbed into the skin and thus into the circulatory system via capillaries.” Applicants have amended claim 1, the sole independent claim rejected on this basis, to recite that the composition is formulated for oral, rectal, intravenous, intramuscular, subcutaneous,

inhalation, vaginal, or ophthalmic administration. In view of this amendment, the rejection of claims 1-4 as being anticipated by Berberian may be withdrawn.

Claims 5 and 6 are rejected as being anticipated by Smith. Applicants have overcome this rejection by amending claim 5, the sole independent claim, to recite that the tricyclic antidepressant and the corticosteroid are the sole active ingredients. As noted by the Office, the composition of Smith includes four to six active ingredients: a vasodilator, an NSAID, a membrane stabilizer, a serotonergic and noradrenergic reuptake inhibitor, and optionally a topical anesthetic and an anti-inflammatory steroid. Thus, the composition taught by Smith does not anticipate the claimed composition that includes only two active ingredients. In view of this amendment, withdrawal of the rejection of claims 5 and 6 as being anticipated by Smith is respectfully requested.


CONCLUSION

Applicants respectfully submit that the claims are now in condition for allowance, and such action is respectfully requested. If there are any charges or any credits, please apply them to Deposit Account No. 03-2095.

Respectfully submitted,

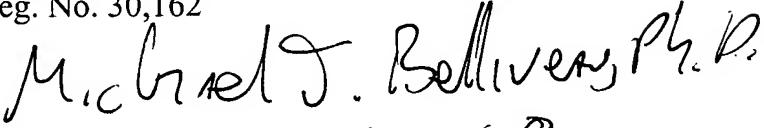
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